

MOTOR VEHICLE OFFENSES—VALIDITY AND USE OF THE UNIFORM TRAFFIC TICKET

Defendant was issued a "uniform traffic ticket" by a patrolman for driving while intoxicated and pleaded guilty at his arraignment the following day. *Held*, (4-3), this "ticket" is not a sufficient information to be used as a pleading, but is merely a notice to appear in court to be charged with a specific crime. *People v. Scott*, 3 N.Y. 2d 148, 143 N.E. 2d 901 (1957).

The gravity of the traffic problem is readily apparent and statistics concerning the large number of traffic deaths are matters of common knowledge. It has been reported that more than four million Americans face traffic courts every year on hazardous moving violations.¹ The Uniform Traffic Summons and Complaint, or uniform traffic ticket, has been recommended as one means of reducing traffic violations because of its non-fixing features and its informative value.² Among the leading advocates of the uniform traffic ticket is the American Bar Association.³ On the other hand, a serious question is raised by the court in the instant case concerning the preservation of certain procedural considerations designed to protect the rights of the alleged violator.

The issue in the present case was whether the uniform traffic ticket, as promulgated by the Commissioner of Motor Vehicles of the State of New York, protected the defendant's interests by meeting the requirements of an information. This question involves an examination of three factors. First, the general requirements of an information and whether they are met by the traffic ticket; second, usage as envisaged by the groups who led in the development of this ticket; and third, the legislative intent in providing for a uniform traffic ticket.

¹ Report of the Special Committee on Traffic Court Program, 79 A.B.A. REF. 407 (1954).

² VANDERBILT, *TRAFFIC LAW ENFORCEMENT* (Beecroft Memorial Lecture), p. 18 (1949): "The police officer writes the ticket in quadruplicate with the aid of carbon paper. The first copy goes to traffic court, the second to police headquarters, the third is retained by the police officer who made it out, and the fourth is handed to the offender. This kind of ticket cannot be killed without the active aid of three public officials—the court, police headquarters, and the police officer. Every ticket, moreover, is numbered and must be accounted for, including spoiled tickets, to the Administrative Director of courts." Also, *Traffic Law Enforcement and the Sixteen Resolutions of the Chief Justices and Governors, Institute of Judicial Administration* p. 15 (1953). A letter from the Commissioner of the New York Bureau of Motor Vehicles to the writer of this case note on November 6, 1957, indicates, "The Uniform Traffic Ticket has served as a deterrent to the 'fixing' of tickets. If a Chief of Police is approached on the subject of 'fixing' or destroying a ticket, which has been issued for a moving traffic violation, he can truthfully reply that all Uniform Traffic Tickets must be reported to the Commissioner of Motor Vehicles and further that the Court copies of the tickets, showing dispositions certified by the Judge, must accompany the report."

³ 41 A.B.A.J. 869 (1955).

The information serves to protect one accused of a misdemeanor in three ways: (1) by informing the defendant of the charge against him; (2) by enabling him to prepare for trial; and (3) by protecting him from being tried a second time for the same offense.⁴ The New York Code of Criminal Procedure defines an information as "the allegation made to a magistrate, that a person has been guilty of some designated crime."⁵ The State has no prescribed form for the information.⁶ In the interests of fairness and protection of the defendant, certain requirements have been postulated for an information, and informations which have not met the purposes previously indicated have been held insufficient.⁷ As stated in *People v. Grogan*,⁸ "The information must set out the acts constituting the crime with the same clarity as an indictment; it must state the offense and the act constituting the offense."

A copy of the uniform traffic ticket as authorized by the New York Commissioner of Motor Vehicles is reproduced on the next page.

It will be noted that this traffic ticket would be clearly addressed to the proper person by filling out the blanks for name, address and driver's license number. There can be no misunderstanding about the charge, as all the enumerated items are in plain language. In addition there are blanks to indicate the statute which the defendant violated, and space to note the time and place of commission of the alleged misdemeanor. These items should readily inform the defendant of the charge against him, enable him to prepare for trial and prevent his being tried again for the same offense.

As it appears that the "ticket" satisfies the purpose of an information it might be asked what the originators of this "ticket" felt would be its proper use. This will also illuminate the intent of the New York legislature when it enacted such a provision. The majority opinion in the instant case, without considering the history of the "ticket," charac-

⁴ *People v. Schulz*, 301 N.Y. 495, 95 N.E. 2d 815 (1950); *People v. Zambounis*, 251 N.Y. 94, 167 N.E. 183 (1929).

⁵ N.Y. CODE CRIM. PROC. §145.

⁶ *People v. Jacoby*, 304 N.Y. 33, 105 N.E. 2d 613 (1952); no information was filed, but the defendant had signed an affidavit setting forth the facts and his conviction on a misdemeanor charge was sustained.

⁷ An information must set out acts constituting the crime with the same clarity as an indictment and must state the offense and act constituting the offense, and the information cannot be supplemented or pieced out by affidavit in the magistrate's court. *People v. Trudeau*, 24 N.Y.S. 2d 34 (1940); *People v. Patrick*, 175 Misc. 997, 26 N.Y.S. 2d 183 (1941).

⁸ 260 N.Y. 138, 183 N.E. 273, 86 A.L.R. 1266 (1932). OHIO REV. CODE §2941.02 provides that all sections of the Revised Code which apply to prosecutions upon indictments apply to informations, and OHIO REV. CODE §2941.03 indicates that the information is sufficient if it can be understood therefrom that it is entitled in a court having authority to receive it, that it was subscribed and presented by the prosecuting attorney, that the defendant is named, that an offense was committed within the jurisdiction of the court and that the offense was committed prior to the filing of the information.

UNIFORM TRAFFIC TICKET

(Name and Address of Enforcement Agency)

TO: Defendant Last Middle First Street City State Dr. Lic. No. State Date of Birth Sex Employer Address

YOU ARE HEREBY NOTIFIED TO APPEAR IN THE

Court

On the Day of 19 at M

TO ANSWER A CHARGE OF

SPPEEDING over limit: m. p. h. in m. p. h. zone Improper LEFT TURN: No Signal Cut corner From wrong lane Improper RIGHT TURN: No Signal Into wrong lane From wrong lane Disobeyed TRAFFIC SIGNAL (when light turned red): Past middle Middle of Intersection Not reached Intersection Disobeyed STOP SIGN: Wrong place Walk Speed Faster Improper PASSING AND LANE USAGE At intersection Cut in Wrong side of pavement Between Traffic On right On hill Lane straddling Wrong lane On curve

OTHER CHARGES:

IN VIOLATION OF

Section Subdlv. of the Ord. Law Committed on the Day of 19 at County Owner, if other than defendant Address Reg. No. State Yr. of Mfr. Make & Type Shield No. Officer or Rank

A plea of guilty to this charge is equivalent to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motor cycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law.

YOUR FAILURE TO APPEAR MAY RESULT IN A WARRANT FOR YOUR ARREST

terized it as a "mere notice to appear." The cases cited as authority were decided well before the automobile reached anything comparable to its current use.⁹ An opposite view is expressed by Warren in his book, *Traffic Courts*.¹⁰

. . . Another carry over from general criminal procedure into the field of traffic offenses is the use of complaints. These are designed for the purpose of acquainting defendants with the charge against them. There appears to be no need for such a document in the case of any traffic offenses except in the small percentage of cases where the officer was not present at the scene to point out the grounds for the charge. . . . The few traffic offenses which cover various omissive or commisive acts, such as reckless driving and "hit-and-run" are still sufficiently clear to the average person not to present a need for their component elements to be set out embellished by legal phraseology, particularly where the charge has been made on the scene of the violation.

Advocates of the uniform traffic ticket intended that it acquaint the violator with the exact nature of the violation, and the public with the types of unsafe maneuvers which result in accidents.¹¹ In contrast to this New York opinion, the Supreme Court of Oregon held a regular traffic ticket to be a sufficient complaint under their statutes in a traffic violation case.¹² Similarly, the courts of New Jersey have found the ticket to be other than a "mere notice," and have held that a motorist charged with drunken driving was properly served with summons which was part of the new uniform traffic ticket rather than a warrant, and magistrate's court was not deprived of jurisdiction of the drunken driving prosecution because no warrant was issued for motorist's arrest.¹³ The

⁹ *City of Buffalo v. Neubeck*, 209 App. Div. 386, 204 N.Y.S. 737 (1924); *Matter of Hart*, 131 App. Div. 661, 116 N.Y.S. 193 (1909); *People v. Levins*, 152 Misc. 650, 273 N.Y.S. 941 (1934). The opinion of the state comptroller, 11 Op. St. Comp. 461 (New York 1955), referred to as authority by the majority, also relies heavily on the *City of Buffalo* case and is therefore subject to the same criticism. In addition, the opinion was given in relation to a ticket other than the uniform ticket and indicates that a violator may not be punished for failure to answer a traffic summons or ticket, which is not the point in issue here. The opinion refers to N.Y. VEHICLE AND TRAFFIC LAW §74 and states, without giving any authority, that "it does not in any way change the method of prosecuting violators."

¹⁰ WARREN, *TRAFFIC COURTS*, 44, 46 (1942). Lack of utility of complaints has resulted in perfunctory treatment of these complaints. Their form belies any value or usefulness which it might be thought they possess—the complaints used are forms duplicating the information usually contained in the ticket or summons given the defendant.

¹¹ *Supra* note 3.

¹² *Yunker v. Quillen*, 202 Ore. 362, 275 P. 2d 240 (1954). ORE. REV. STAT. §§132.520, 156.030 (1953) provides that a complaint must include, "A statement of the acts constituting the offense in ordinary and concise language without repetition, and in such manner as to enable a person of common understanding to know what is intended."

¹³ *State v. Nimmo*, 11 N.J. Super 606, 78 A. 2d 736 (1951). Also see *State*

Model Traffic Ordinance¹⁴ has a provision for the use of a citation as a complaint and such use has been recommended by the Traffic Court Committee of the American Bar Association.¹⁵

With this as background, the New York Joint Legislative Committee on Traffic Violations submitted the following recommendation:

Uniform Traffic Ticket. Governor Dewey in his annual message to the legislature this year urged that the uniform traffic ticket which is recommended by the American Bar Association Traffic Court Committee be instituted in this state. It would provide the court and the motorist with the facts and circumstances of the violation and also afford an opportunity for proper administrative controls over the disposition of traffic offenses. Such a system has been in effect in Michigan and New Jersey where it is used with great success. The Committee has examined the proposed ticket . . .¹⁶

It will be noted that the Committee refers to the uniform traffic ticket recommended by the American Bar Association and indicates that such ticket would provide the court and the motorists with the facts of the violation. The 1952 Report of the American Bar Association's Traffic Court Committee indicated: "One special undertaking has been the preparation and promotion of a uniform traffic ticket and complaint."¹⁷ It would appear that the Governor also felt that one form would be put

v. Lee, 25 N.J. Super 92, 95 A. 2d 500 (1953); objection that defendant was arrested without a warrant and that the summons was issued before the complaint was actually verified is without merit. State v. Ahrens, 25 N.J. Super 201, 95 A. 2d 755 (1953): "In cases involving 'traffic offenses,' the complaint and summons shall be in the form set out in Criminal Procedure Form No. 11, the 'Uniform Traffic Ticket,' and it is further provided that 'The Complaint form shall be used in traffic cases whether the complaint is made by a police or peace officer, or by any other person.' (Rule 8:10-1)."

¹⁴ Model Traffic Ordinance §158.4 (1953): "When a copy of citation shall be deemed a lawful complaint. In the event the form of citation provided under section 157 includes information and is sworn to as required under the general law of this state in respect to a complaint charging commission of the offense alleged in said citation to have been committed, then such citation when filed with a court having jurisdiction shall be deemed to be a lawful complaint for the purpose of prosecution under this ordinance."

¹⁵ Report of the City of Saginaw, based on a study by American Bar Association and Traffic Institute Northwestern University, 1954, recommended the Model Traffic Ordinance quoted in footnote 14 *supra*. Also see, A Report on the Courts of Limited Jurisdiction; Traffic Courts: Indiana, at page 66. Prepared by American Bar Association Traffic Court Program and the Traffic Institute, Northwestern University, in cooperation with the Indiana Legislative Study Commission on traffic safety (1954): ". . . the President's Highway Safety Conference, and other national organizations interested in traffic safety and the improvement of justice in traffic courts have recommended the nationwide use of a uniform traffic citation with one copy thereof to be in the form of and used as a sworn complaint."

¹⁶ Joint Legislative Committee on Traffic Violations, Leg. Doc. No. 53, 1953, New York State Legislative Annual 453 (1953).

¹⁷ Report of the Special Committee to Supervise the Traffic Court Program, 77 A.B.A. REP. 613 (1952).

in use.¹⁸ Nevertheless, the Commissioner under the enactment¹⁹ which authorized him "to prescribe the form of summons and complaint" instituted a traffic ticket but indicated that "no uniform complaint is being prescribed at this time."²⁰

The dissent in the instant case urged that:

This paper while colloquially called a "traffic ticket" actually is much more than that since it performs the dual function of a summons notifying the defendant to appear in court and of a complaint giving him in fullest detail the information as to what he is charged with doing or failing to do contrary to law.

Current usage and legislative intent seem to support the dissenting position.

Although this case should logically have no effect on the overall use of the uniform traffic ticket since it seems to hinge on the Commissioner's formulation and an oversight of current usage and legislative intent, it serves to illustrate not only the care with which the uniform traffic ticket must be implemented, but the constant problem of legislative drafting.

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¹⁸ Governor's Memoranda on Bills approved, State Legislative Annual, *supra* note 16 at 357: ". . . This bill empowers the Commissioner of Motor Vehicles to prescribe the form of a uniform traffic summons and complaint and to establish procedures for administrative controls over their disposition. . . ." That the legislature had a change in mind was demonstrated when the 1955 legislature added §74-b to the N.Y. VEHICLE AND TRAFFIC LAW. "Where a traffic summons has been served . . . any chief, deputy-chief, captain, Lieutenant, or acting Lieutenant of a police department to whom the service of the traffic summons is reported, is hereby authorized to administer to such peace officer all necessary oaths in connection with the execution of the complaint to be presented in court by such peace officer in the prosecution of such offense."

¹⁹ N.Y. VEHICLE AND TRAFFIC LAW §74. (Uniform Traffic Summons and Complaint.) "1. The commissioner shall be authorized to prescribe the form of summons and complaint in all cases involving a violation of any provisions of this chapter or of any ordinance, rules or regulations relating to traffic except parking violations. . . . Prior to the adoption of a prescribed form of summons and complaint . . . the commissioner shall solicit the views of police and local law enforcement agencies in regard thereto. . . ."

²⁰ Uniform Traffic Ticket Regulations, N.Y. Off. Comp. of Codes, Rules and Regulations, 10th Off. Supp. 1955, p. 734.